

CS DJ No. 10458/16

Koras (India) Ltd.

Vs. Ashish Kumar Ahooja

26.08.2019

Present: Sh. Deepak Bashta, Ld. counsel for plaintiff.

Ms. Aditi Gupta, Ld. Counsel for defendant with
defendant in person.

Ld. Counsel for plaintiff has filed application for
summoning of witnesses with record from HP India Limited.
Application be taken on record. Copy supplied.

Submissions heard.

The witnesses be summoned, on PF, for next date.

Ld. Counsel for defendant has filed application under
Section 151 CPC for recalling of order dated 04/05/2019 vide which
PW1 Sanjay Mahrotra was examined and discharged. Application be
taken on record. Copy supplied.

Submissions heard on the application.

The record reflects that on 18/03/2019, PW Sanjay
Mahrotra was present and was examined in chief. Adjournment was
sought on behalf of defendant with the submission that an order
dated 18/09/2018 was challenged by defendant before Hon'ble High
Court. It came on record that there was no stay on present
proceedings by Hon'ble High Court. Defendant did not avail of the

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opportunity to cross examine PW1 on 18/03/2019. The case was adjourned on 04/05/2019 as final opportunity to defendant to cross examine PW1.

Again on 04/05/2019, PW1 Sanjay Mahrotra was present for cross examination. However, Ld. Counsel for defendant sought his discharge as counsel for defendant with the submission that he had been receiving no instructions from the defendant to represent him as defence counsel. Upon these submissions, Sh. Manoj Joshi and Sh. Naresh Kaushik were discharged as defence counsels, and PW1 was examined and discharged.

It is trite to mention that it was the duty of the defendant to defend the suit diligently, keeping himself abreast of the proceedings of the case. In the present application, there is no allegation of professional misconduct of Ld. defence counsels, discharged by the court on 04/05/2019. No complaint has been filed against them.

I find that there is no merits in the application. The defendant does not seem interest in diligently defending the suit, that has resulted in repeated adjournments and delay in trial. However, in the interest of justice, one more opportunity can be granted to the defendant to cross examine PW1, subject to cost of Rs.20,000/-. That would take care of recompense to the plaintiff for the inconvenience caused to it.

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Subject to prior payment of cost, the application is allowed. Defendant shall have one opportunity to cross examine PW1 Sanjay Mahrotra.

Put up for cost and PE on 26/11/2019.

[Vishal Singh]
ADJ :06/Central/Delhi
26.08.2019